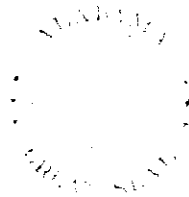


OFFICE OF THE ATTORNEY GENERAL

81-00056



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NOV 3 1980

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Assessments - Ad Valorem Taxes - Municipalities

Ordinance or resolution levying municipal ad valorem tax must be forwarded to tax assessor by June 1 next succeeding said levy.

Dear Mr. Thrash:

In your request for an opinion dated September 24, 1980, you state that you received a resolution passed by the governing body of the Town of Edwardsville, which states that on the 24th day of March, 1980, the Town Council voted to raise the millage for ad valorem tax purposes in the Town of Edwardsville to 15 mills. The copy of the resolution which you received in your office on September 16, 1980, was not dated. You state that the tax collector has already mailed notices to the taxpayers of the amounts due and that you have already preprinted tag receipts to begin selling October 1, 1980. Your abstract was sent to the Department of Revenue the first week in August. You state that the increase in millage in the Town of Edwardsville cannot be implemented at this time without great difficulty due to the fact that it was received by you at such a late date. You ask whether the resolution is valid so as to require its implementation by you at this time regardless of the difficulty which this would occasion to your office.

Your question is answered in the negative. The copies of the ordinances of the Town of Edwardsville, dated November 8, 1948, which levy the ad valorem tax for the town indicate that they were passed pursuant to the authority granted to municipalities under §11-51-40, et seq., Code of Alabama 1975. Section 11-51-42 provides:

"It shall be the duty of the council, board of commissioners or other governing body of any such municipality during the month of May of each year, by resolution or ordinance, to levy a tax on the property situated in such

"municipality for the next succeeding tax year at a rate in no event in excess of the constitutional limit authorized to be levied by such municipality on the value of such property as assessed for state taxation as shown by the books of assessment for the state and county tax year ending September 30 next succeeding the levy.

"The levy so made by the council, board of commissioners or other governing body of such municipality shall go into force and effect as of October 1 next succeeding the levy and shall become a lien on October 1 next succeeding such levy and not before. After such levy is made, it shall be the duty of the mayor or other presiding officer or clerk or other clerical officer of such municipality on or before June 1 next succeeding the levy to certify and deliver to the tax assessor of such county in which such municipality is situated a copy of the resolution or ordinance passed by such council, board of commissioners or other governing body in and by which taxes are levied for such municipality for the next succeeding tax year commencing on the next succeeding October 1; provided, that in case such council, board of commissioners or other governing body shall fail any year thereafter to make such levy and give such notice, then the levy for the preceding year shall be continued and the taxes shall be assessed in accordance with the provisions of this article." (Emphasis supplied.)

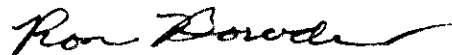
It can be seen from a reading of the above-quoted statute that the governing body of the Town of Edwardsville was required to notify your office by June 1, 1980, of the increase in the millage authorized by the resolution of 24 March, 1980, so that your office would be able to incorporate said increase in millage into your assessments. Inasmuch as this was not done, you are not required to implement said resolution. Instead, the levy for the preceding year shall be continued for the 1980 tax year as provided in §11-51-42.

Sincerely yours,

CHARLES A. GRADDICK

Attorney General

By-



RON BOWDEN

Assistant Attorney General

RB:jc